



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,384	07/09/2002	Cornelis F.T. Visser	000771.00029	4552

22907 7590 02/03/2003

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

EXAMINER

JACKSON, ANDRE K

ART UNIT PAPER NUMBER

2856

DATE MAILED: 02/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,384

Applicant(s)

VISSER, CORNELIS F.T.

Examiner

Andre' K. Jackson

Art Unit

2856

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 13-16 is/are rejected.
- 7) ☒ Claim(s) 7-12 and 17-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 03/06/02 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show "central shaft 11" as described in the specification on page 3, line 8. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "leveling device" in claims 7 and 12; "carriers" and a "movable chain" in claim 8; and "a dispensing device" in claims 19 and 20 must be shown or the features canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities:

On page 2, lines 32-37 the word "figure" is spelled with both an upper case "F" and a lower case "f". It is suggested, to keep consistency, to spell "figure" as such --Figure-- throughout the document.

On page 3, line 31 "device" should be --devices--.

On page 4, line 15 "table" should be --tables--.

Appropriate correction is required.

Claim Objections

6. Claim 7 is objected to because of the following informalities:

Claim 7, "levelling" should be --leveling-- for uniformity, since it is spelled "leveling" in claim 12.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Oetiker et al.

Regarding claim 4, Oetiker et al. discloses a "Process and device for continuously determining the moisture content of spoilable foodstuffs" which has a supply vessel (16, measurement housing) placed on a weighing device (Column 1, lines 62-68; Column 2, lines 1-7), a feed device (70, compartment), a discharge device (23, product outlet), and a computer (9).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robichaud et al.

Regarding claim 1, Robichaud et al. discloses a "Method for the measurement of forest duff moisture content" where the volume of a quantity of bulk material is determined (Figure 7), the weight of the quantity of the bulk material is determined (Column 1, lines 51 and 52), the density is then determined from the volume and the weight (Figure 7). What is not disclosed is determining the moisture content with a comparison table. However, it is well within the purview of the skilled

artisan to use the method taught by Robichaud et al. and compare the result to a table to establish the accuracy of the method used.

13. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hane.

Regarding claim 1, Hane discloses a "Method for measuring the moisture ratio of organic material and apparatus herefor" where the volume of a quantity of bulk material is determined (Column 2, lines 33-35), the weight of the quantity of the bulk material is determined (Column 1, lines 40 and 41), the density is then determined from the volume and the weight (Column 6, lines 60-65). What is not disclosed is determining the moisture content with a comparison table. However, it is well within the purview of the skilled artisan to use the method taught by Hane et al. and compare the result to a table to establish the accuracy of the method used.

14. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hane in view of Cherry et al.

Regarding claim 2, Hane discloses where the volume of a quantity of bulk material is determined (Column 2, lines 33-35) and the weight of the quantity of the bulk material is determined (Column 1, lines 40 and 41). What is not disclosed by Hane is adding water to the quantity of bulk

material until the weight associated with the desired moisture content is obtained. However, Cherry et al. disclose a "System and method for monitoring water content or other dielectric influences in a medium" which describes adding water to the quantity of bulk material until the weight associated with the desired moisture content is obtained (Column 13, lines 21-26). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Hane to include adding water to the quantity of bulk material until the weight associated with the desired moisture content is obtained as taught by Cherry et al. since they are from the same field of endeavor.

Regarding claim 3, Hane does not disclose mixing the water with the bulk material. However, Cherry et al. disclose mixing the water with the bulk material (Column 13, lines 21-26). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Hane to include mixing the water with the bulk material as taught by Cherry et al. since mixing would distribute the water evenly.

15. Claims 5,6,9 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oetiker et al. in view of Bajema et al.

Regarding claim 5, Oetiker et al. disclose a feed device, which does not comprise a conveyor belt. However, Bajema et al. disclose a "Ground-crop harvester control system" which has a feed device, which does

comprise a conveyor belt (20). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Oetiker et al. to include a conveyor as a feed device as taught by Bajema et al. since a conveyor would make it easier to transport the soil where the bulk material may become stuck in the feed device of Oetiker et al.

Regarding claim 6, Oetiker et al. does not disclose where the measuring member comprise a laser source and a laser detector to determine the height of the material carried on the conveyor. However, Bajema et al. disclose where the measuring member comprise a laser source and a laser detector to determine the height of the material carried on the conveyor (Column 11, lines 55-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Oetiker et al. to include where the measuring member could comprise a laser source and a laser detector to determine the height of the material carried on the conveyor as taught by Bajema et al. since this would make the measuring member more accurate.

Regarding claims 9 and 13-16, it is considered a design choice and well within the purview of the skilled artisan to have a supply vessel that is tiltable to ensure that all of the material is out of the vessel.


16. Claims 7,8,10-12 and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent

form including all of the limitations of the base claim and any intervening claims.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' K. Jackson whose telephone number is (703) 305-1522. The examiner can normally be reached on Mon.-Fri. 7AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are N/A for regular communications and N/A for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

A.J. 
January 27, 2003

HELEN KWOK
PRIMARY EXAMINER

